

**VIRGINIA: IN THE LYNCHBURG CIRCUIT COURT***Samuel Joseph Orlando v. Andrew John Michael, et al***SAMUEL JOSEPH ORLANDO,***Plaintiff,***v.****ANDREW JOHN MICHAEL, and  
JANE DOE***Defendants.***Case No. \_\_\_\_\_****COMPLAINT**

Plaintiff Samuel Joseph Orlando, for his Complaint for Declaratory Relief against defendants Andrew John Michael and Jane Doe, alleges as follows:

**INTRODUCTION**

1. America's criminal justice system has a disturbing history of targeting African Americans for selective enforcement and aggressive prosecution of criminal offenses.
2. In the wake of the killing of George Floyd and countless more, this system's proverbial chickens have come home to roost, and the result is an American spring of protests and actions designed to hold Police accountable to the laws we all are required to follow.
3. A recent series of police involved beatings and killings, of mostly Black men, in Augusta County Virginia has spilled into the jurisdiction of this Court, and Plaintiff files this Complaint for Declaratory Relief in an effort to quickly address significant and dangerous due process violations committed by Defendants.
4. Plaintiff is an 18-year-old social justice activist, who has helped lead recent protest efforts in Augusta County, Virginia against racism and corruption by the Augusta County Sheriff's Office ("ACSO"), after two police involved shootings in as many weeks last year.

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5. What began as a Black Lives Matter (“BLM”) protest for body cameras (cams) became focused on more personal controversies related to Augusta County Sheriff Donald Smith (“Sheriff Smith”), after it was discovered in official court records that Sheriff Smith had lied to federal agents and based on information and belief, lied to a federal grand jury which was investigating his “close friend” for human trafficking and witness intimidation.
6. Plaintiff and other members of a local BLM organization learned of allegations that ACSO deputy sheriffs had sexually molested teens, including the son of a former county official, and that Sheriff Smith covered up the allegations.
7. Plaintiff and other members of a local BLM organization learned of allegations that Sheriff Smith was in a romantic relationship with Felix Chujoy, a felon convicted of several charges in a human trafficking prosecution, and that he had helped hide Chujoy from arrest after he had been indicted on charges related to the distribution of methamphetamine.
8. Plaintiff and other members of a local BLM organization learned that Sheriff Smith used the words “nigger” and “porch monkey” to describe African Americans while he was a leader of the County’s TAC (tactical) team.
9. After several weeks of demonstrating with bullhorns without issue, Sheriff Smith began arresting protestors when they would use their bullhorns to reference the personal allegations discussed above.
10. Augusta County Sheriff Office deputies told Plaintiff and other protestors that they had pre-arranged for the protestors to be detained without bond if they continued protesting the Sheriff’s office.

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11. Plaintiff and all of the BLM protestors were advised, through communication from Don McCown, regional manager of the Virginia Magistrate system, that ALL of the magistrates in the 25<sup>th</sup> judicial district had asserted a conflict of interest in hearing any complaints or conducting any hearings from Black Lives Matter supporters who attended protests at the Sheriff's office.

12. Plaintiff was advised that he would be required to see a magistrate in another judicial district within Region 2 of the Virginia Magistrate System. Lynchburg was specifically defined as an option by Mr. McCown.

13. Plaintiff has been targeted by Sheriff Smith and his supporters, including two individuals who participated in the January 6, 2021, Capitol insurrection. This targeting has included harassment and stalking, and the denial of due process has forced Plaintiff to file civil complaints in several instances that would have best been reserved for criminal court actions.

14. Plaintiff discovered that he was the victim of a violation of § 16.1-309, committed by Sheriff Smith on June 25, 2021. This resulted in public exposure of Plaintiff's personal identifying information along with a criminal charge, in violation of state law since Plaintiff was a juvenile at the time of his arrest for violating the noise ordinance, and such criminal charges are required to be kept confidential by law.

15. Plaintiff brought a criminal complaint against Sheriff Smith before the magistrate at the Lynchburg Adult Detention Center, as he had been directed to do should he have any need to see a magistrate.

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74 16. On January 2, 2022, Defendant Jane Doe, a magistrate working in the Lynchburg Adult  
 75 Detention Center at approximately 9:00 PM, initially refused to accept Plaintiff's  
 76 complaint because, according to the magistrate, "we don't do that here".

77 17. After being confronted by the fact that magistrates are in fact the appropriate official  
 78 to see when seeking a warrant pursuant to a criminal complaint, and that Plaintiff had  
 79 been directed there by the Magistrate system's Regional Manager who supervises the  
 80 Lynchburg office, Defendant Doe acquiesced and physically accepted the criminal  
 81 complaints.

82 18. Defendant Doe called Plaintiff and his father to the window to conduct a "hearing" on  
 83 the criminal complaints attempted to be filed by Plaintiff and by his father, which  
 84 focused on the same incident.

85 19. Defendant Doe immediately announced that she had Defendant Andrew John Michael  
 86 joining by telephone, and Defendant Michael acknowledged his presence verbally.

87 20. Defendant Doe and Defendant Michael proceeded to conduct a hearing on the criminal  
 88 complaint in the lobby of the magistrate's office.

89 21. Plaintiff and his father were forced to crouch over and/or get on their knees on the floor  
 90 so that they could speak through a slot open in the door at approximately waist level.  
 91 This was necessary in order to hear Defendant Michael who had joined by  
 92 speakerphone.

93 22. Defendants made it clear that neither would issue the warrant, but both disclaimed  
 94 responsibility for the "hearing".

95 23. Defendant Doe claimed that Defendant Michael had conducted the hearing and  
 96 denied the issuance of a warrant.

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97 24. Defendant Michael claimed that he was not conducting the hearing and the final  
 98 decision was from Defendant Doe.

99 25. Defendant Doe refused to identify herself and refused to give a written confirmation of  
 100 the denial, stating that she “didn’t conduct a hearing”.

101 26. Defendant Doe was heard by Plaintiff and his father stating on the phone to Defendant  
 102 Michael that there was “*no way I’m issuing a warrant against a sheriff. I’m not doing*  
 103 *it*”.

104 27. Defendant Doe was also heard complaining that the Regional Manager had put her in  
 105 this position to hear such a complaint.

106 28. While both Defendants participated in what they first called a hearing, neither  
 107 magistrate ever placed the Defendant or his father under oath to secure testimony  
 108 pursuant to Virginia Code § 19.2-72.

109 29. Upon information and belief, Defendants were determined to not issue a warrant  
 110 pursuant to Plaintiff’s criminal complaint even if probable cause of a criminal offense  
 111 was established. When Defendants learned that Plaintiff had evidence more than  
 112 sufficient to demonstrate probable cause that Sheriff Smith committed a criminal  
 113 offense against Plaintiff, they ended the hearing without issuing a warrant and  
 114 disclaimed taking responsibility for the decision.

115 30. Defendants Doe and Michael could have exercised their judicial discretion and denied  
 116 the issuance of a warrant, but instead neither Defendant wanted to accept responsibility  
 117 for the decision and refused to characterize the interaction as a “hearing”.

118 31. Upon information and belief, the Defendants’ unwillingness to conduct a legitimate  
 119 hearing and issue a decision on the merits is because all of the elements of a violation

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120 of 16.1-309 are met and that such a hearing would require the issuance of a warrant  
 121 against the Sheriff of Augusta County.

122 32. It is counsel's opinion that these circumstances are appropriately described as follows:

123 " the thin blue line covers a multitude of sin", and Defendants, in this case, elected to  
 124 cover for a Sheriff instead of performing their Constitutional duties.

125 **JURISDICTION AND VENUE**

126 33. The Court's jurisdiction is based on § 17.1-513, *et seq.*, and § 8.01-328.1, *et seq.*, of  
 127 the Code of Virginia.

128 34. Venue is proper pursuant to § 8.01-262(4) of the Code of Virginia.

129 **PARTIES**

130 35. Plaintiff Samuel Joseph Orlando is a resident of Virginia with a principal residence in  
 131 Fishersville, Virginia. Orlando is an artist, an activist who supports Black Lives Matter  
 132 and the LGBTQIA community, and a young entrepreneur.

133 36. Upon information and belief, Defendant Andrew John Michael is a resident of  
 134 Virginia. He is the Chief Magistrate for the City of Lynchburg.

135 37. Upon information and belief, Defendant Jane Doe is a resident of Virginia. She was the  
 136 magistrate working at the Lynchburg Adult Detention Center at approximately 9:00  
 137 PM on January 2, 2021. She refused to provide her name upon request.

138 **COUNT I**

139

140 **DECLARATORY RELIEF**

141 ***Constitutional Violations of Due Process, Access to a Magistrate, and Rights of a***  
 142 ***Crime Victim***

143 38. Plaintiff was denied his right to a hearing on his criminal complaint before an  
 144 impartial magistrate.  
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- 146 39. Virginia's magistrate system is a critical part of the judiciary, and without access a  
 147 citizen of Virginia loses the ability to seek charges or protective orders in an emergency  
 148 situation.
- 149 40. Plaintiff finds himself in the jurisdiction of this Court not through his own doing, but  
 150 because he was directed to present his criminal complaint to the magistrate's office that  
 151 lies within the jurisdiction of this Court.
- 152 41. The issues of corruption and criminality in the Augusta County Sheriff's Office is not  
 153 an issue for this Court; rather, the issue is much more specific and simple and falls  
 154 squarely in the jurisdiction of this Court.
- 155 42. When a member of the public presents to the magistrate a criminal complaint, he or she  
 156 is guaranteed a hearing on the merits of their complaint.
- 157 43. The Constitution of Virginia, article I, Section 2, asserts "That all power is vested in,  
 158 and consequently derived from, the people, *that magistrates are their trustees and*  
 159 *servants, and at all times amenable to them.*"
- 160 44. The Constitution of Virginia, article I, Section 8-A (by amendment ratified November  
 161 5, 1996), entitled Rights of Victims of Crime, asserts "That in criminal prosecutions,  
 162 the victim shall be accorded fairness, dignity, and respect by the officers, employees,  
 163 and agents of the Commonwealth and its political subdivisions...." The Constitution  
 164 further enumerates this right to include "The right to be treated with respect, dignity,  
 165 and fairness *at all stages* of the criminal justice system."
- 166 45. The Constitution of Virginia, article I, Section 11, asserts "That no person shall be  
 167 deprived of his life, liberty, or property without due process of law."

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168 46. Plaintiff presented a complaint to Defendant Doe and participated in a “hearing” with  
 169 both Defendants wherein he established probable cause that he was the victim of a  
 170 crime, but both Defendants refused to concede that a hearing was held and further  
 171 refused to hold such a hearing.

172 47. Upon the Order of this Court, Plaintiff stands ready to appear before a magistrate in  
 173 Lynchburg to participate in an impartial hearing on his criminal complaint against  
 174 Augusta County Sheriff Donald Smith.

175 48. An actual justiciable controversy ripe for adjudication exists between the parties as  
 176 Plaintiff attempted to assert a criminal complaint in proper form, with associated  
 177 evidence and testimony, while Defendants, upon Plaintiff’s information and belief,  
 178 declined to perform their ministerial duty to conduct a hearing on the complaint in order  
 179 to avoid issuing a criminal charge against a sitting sheriff.

180 49. Plaintiff has no adequate remedy at law to resolve this matter.

181 **WHEREFORE**, the Plaintiff Samuel Orlando, by counsel, prays that this Court enter a  
 182 judgment declaring that: (1.) Plaintiff is entitled to a hearing on his criminal complaint. (2.)  
 183 The prior “hearing” afforded Plaintiff failed to constitute a hearing pursuant to Virginia  
 184 Code § 19.2-72, as neither Defendant, both judicial officers, would agree to perform the  
 185 hearing and for this reason was a violation of Plaintiff’s Constitutional rights as listed in  
 186 this complaint. (3.) Plaintiff shall recover his costs and fees incurred in this matter,  
 187 including reasonable attorney’s fees. (4.) Granting Plaintiff such other relief as the Court  
 188 deems just and proper pursuant to Va. Code Ann. § 8.01-186.

189 Dated this 4<sup>th</sup> Day of January, 2022

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**JURY TRIAL DEMANDED**

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*Respectfully Submitted,*



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By: \_\_\_\_\_

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